IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY , THE SECOND DAY OF JULY
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE N.V. RAMANA

WRIT PETITION NO : 10454 of 2004

Between:

Smt. Tammineni Ademma W/o T.Yerrappa,
Resident of Sanjeevapuram Village, Yerraguntla(Post) Garladinne Mandal, Anantapur District

..... PETITIONER

AND

1 The District Collector Anantapur District,
2 The Deputy Director Ground Water Department
Anantapur
3 The Mandal Revenue Officer Galadinne Mandal, Garladinne
Anantapur District

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to pass an order or orders or direction or a writ more particularly one in the nature of Writ of Mandamus declaring the action of the respondents in objeting to draw water from the existing bore well situated in the petitioner's land in sy.No.247-1, Krishnapuram Village, Garladinne Mandal, Anantapur basing on the technical report dt. 20/02/2004 submitted by the 2nd respondent in contrary to AP. Water, Land and Trees Act, 2002, as arbitrary, illegal and violative of the principles of natural justice and the petitioner's rights guaranteed under Articles 14 and 21 of the Constitution of India

For the Petitioner:M/SC.KODANDA RAM - ADVOCATE

For the Respondent Nos 1 to 3.: GP FOR REVENUE

The Court at the stage of admission made the Following :

ORDER:

The present writ petition is filed questioning the action of the respondents in objecting to draw water from the existing bore well in Survey No. 247/1, Krishnapuram village, Garladinne Mandal, Anantapur basing on the technical report dated 20-2-2004 submitted by the second respondent in contrary to A.P.Water, Land and Trees Act, 2002 as illegal and arbitrary.

Subsequent to filing of the writ petition, the petitioner has filed W.P.M.P.No. 14105 of 2004 seeking amendment of the writ prayer as follows:

> "..... Writ of Mandamus declaring the order in Ref.Rc.No.(A)286/2003 dated 16-6-2004 passed by the third respondent herein as arbitrary, unreasonable, illegal,ultravires and violative of the provisions of A.P.water, Land and Trees Act, 2002 and Articles 14 and 21 of the Constitution of India and consequently direct the respondents not to interfere with the use of the bore well situated in the petitioner's land in Survey No.247-1, Krishnapuram village, Garladinne Mandal, Anantapur."

The facts of the case, in brief are that the petitioner is a small farmer owning an extent of land admeasuring Ac.1-92 cents in Survey No.247-1 & 247-3, Krishnapuram village, and cultivating the same by utilizing the water from the existing bore-well. That on the complaint of the adjacent land owner K.Lakshmaiah, the third respondent on
16-9-2003 without issuing any notice or opportunity entered into the petitioner's land and in the absence of petitioner seized certain machinery and kept the same in the custody of Station House Officer, Garledinne police station. Thereafter the matter was compounded and the petitioner paid an amount of Rs.1050/- and got released the seized material, as per the instructions of the third respondent vide proceedings

dated 24-9-2003. Thereafter the petitioner filed a petition before the first respondent on 24-10-2003 seeking police protection and vide proceedings dated 27-10-2003 the first respondent directed the third respondent to provide necessary police protection. In turn, the third respondent vide letter dated 7-11-2003 sought for necessary instructions stating that the bore well drilled by the petitioner is in violation of the provisions of A.P.Water, Land and Trees Act, 2002 as such whether to give police protection to the petitioner or not. The petitioner base his claim on the certificate issued by the Panchayat Secretary of Krishnapuram village to the effect that the petitioner is owner of the land in Survey No. 247-1 to an extent of Ac.0-92 cents having purchased the same vide document No. 368/2001 and that there is a bore well existing in the said land. Thereupon, the second respondent has submitted a technical report dated 20-2-2004 to the first respondent , which was questioned in this writ petition.

Learned counsel for petitioner submitted that the subject bore well is existing one and the technical report submitted by the second respondent is totally not applicable to the petitioner. It is further stated that the third respondent by order dated 16-6-2004 directed the Mandal Revenue Insptector-II , Garladinne to close the bore well and seize pumpset fixed, if any and also directed the Assistant Engineer, APCPDCL, Garladinne not to give power supply to the bore well of the petitioner.

Learned Government Pleader for Revenue submitted that the petitioner cannot question the report dated 20-2-2004 submitted by an expert prepared after conducting an enquiry. It is further submitted that after considering the report of the Mandal Revenue Inspector-I, Garladinne, the third respondent has passed the order dated 16-6-2004, against which order, a statutory appeal is provided to District Collector under Section 33 (1) of the A.P. Water, Land and Trees Act and the writ petition is not maintainable.

Heard the learned counsel for petitioner and learned Government Pleader for Revenue.

In the present writ petition the petitioner sought to question the report of the second respondent dated 20-2-2004 and the consequential order of the third respondent dated 16-6-2004. It is to be noted that the Assistant Director of the Ground Water Department, Anantapur along with the Mandal Revenue Officer and Village Secretary has inspected the bore wells of petitioner and one K.Lakshmaiah

and after conducting a survey submitted the impugned report. The relevant portion of the impugned report reads as under:

> "…… Sri T.Yerrappa drilled bore well with depth 130 in his land in Sy No.247-3 about 8 months back. No motor fixed to the said bore well. When measured from the Borewell of Sri K.Lakshmaiah the borewell of Yerrappa is situated at 90 meters distance. As per NABARD rules the distance shall be 260 meters from bore to bore.
>
> …..
>
> After inspection of the above, as per the Chapter 11(3) of A.P.Gazette No.9 dated 2-7-1996 in Act No.7 of 1996 from RWS Hand Bore Well no person for any purpose shall drill the bore within 200 meters, within 250 meters if fixed motor and within 500 meters for Protected Drinking Water (enclosed). Since the distance from Hand Boare to bore well of Ryots is more than 200 meters, no effect will be there on the drinking bore well. As the distance from the bore well of Sri T.Yerrappa to the bore well of Sri K.Lakshmaiah is less than 200 meters, the Mandal Revenue Officer who is ex-officio Chairman of the Mandal may take necessary action on the bore well of Sri Yerrappa."

The consequential order dated 16-6-2004 was issued considering the above report and the report of the Mandal Revenue Inspector-I, Garladinne dated 8-6-2004. It is to be noted that, after conducting necessary enquiries and obtaining expert opinion, wherein it was held that the petitioner has contravened the provisions of A.P. Water, Land and Trees Act, 2002, the authorities had acted in the matter, which cannot be said as illegal. In the circumstances, the report dated 20-2-2004 prepared by an Expert i.e., Assistant Director of Ground Water Department, cannot be said to be illegal. Now coming to the order dated 16-6-2004, since a remedy of appeal is provided to District Collector under section 33 (1) of the Act, no interference is warranted by this Court.

For the foregoing reasons, the writ petition fails and the same is dismissed at the stage of admission. The petitioner is at liberty to avail the alternative remedies available under law.

_____ N.V.RAMANA,J

2-7-2004

TVK

To

1 The District Collector Anantapur District,
2 The Deputy Director Ground Water Department
Anantapur
3 The Mandal Revenue Officer Galadinne Mandal, Garladinne
Anantapur District

4...2CCs to

5..2CD copies

6.. Two CCs to learned G.P. for Revenue

*Form-NIC-OGS/WP{**GR**}*